IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 19154 of 2004

Between:

B.Prasada Rao, S/o late B.Ranga Nayakulu,
R/o D.No.18/775/14, Katale Veedhi, Gunthakal, Ananthapur District

..... PETITIONER

AND

1 The Chairman cum Managing Director, A.P.S.R.T.C. Musheerabad,
R.T.C. X Roads, Hyderabad
2 The Regional Manager, A.P.S.R.T.C. Ananthapur, Ananthapur District
3 The Depot Manager, A.P.S.R.T.C., Gunthakal, Ananthapur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or orders or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent proceedings No.P2/785(1)/2004-RM-A dated 4-9-2004 as illegal, arbitrary, unjustified, unsustainable, unreasonable, contrary to law and set-aside the same and consequently direct the respondents to consider the case of the petitioner for appointment of conductor/ or any other suitable post on compassionate ground under the bread winner scheme forthwith.

Counsel for the Petitioner:MR.A.RAMA RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court made the following:

ORAL ORDER:

Challenging the 2nd respondent's proceedings No.P2/785(1)/2004-RM-A, dated 4.9.2004, the petitioner has filed this writ petition.

The petitioner's father died on 25.4.2001 leaving behind the petitioner, two brothers and mother of the petitioner. For the unauthorized absence of the father of the petitioner from duties from 23.5.1999 to 2.6.1999, the 3rd respondent herein removed him from service vide proceedings dated 21.3.2000. As against the removal order, the claimants (the petitioner herein, his two brothers and his mother) raised an industrial dispute. The Tribunal gave a direction to the 3rd respondent to pay all the consequential benefits to the claimants. Thereafter, the petitioner submitted an application, dated 19.3.2004 to the 2nd respondent to appoint him as Conductor or in any suitable post, but the said application was rejected on the ground that the petitioner received all the retirement benefits in view of the award passed by the Labour Court, Anantapur in I.D.No.293 of 2001, dated 31.10.2003. Challenging the same, this writ petition has been filed.

The learned counsel for the petitioner has contended that the terminal benefits if any made in pursuance of the order of the Tribunal have nothing to do with the appointment on compassionate grounds under Bread Winner Scheme.

The learned standing counsel for the respondents has contended that the appointment to be made on compassionate grounds has to be determined with reference to the scheme if any available and the rules and regulations of the Corporation.

In view of the contentions raised by both the parties it is clear that the application of the petitioner was not considered with

reference to the scheme and the rules and regulations of the Corporation, but it was rejected solely based on the award passed by the Tribunal. Therefore, it is unsustainable.

Having regard to the facts and circumstances of the case, I am of the considered opinion that the impugned proceedings dated 4.9.2004 of the 2nd respondent suffer from legal infirmities warranting interference by this Court. The impugned proceedings are accordingly quashed and set aside. The matter is remitted to the 2nd respondent for passing appropriate orders in accordance with the scheme and rules and regulations of the Corporation within a period of two months from the date of receipt of a copy of this order.

With the above observation, the writ petition is disposed of. In the circumstances of the case, there shall be no order as to costs.

_____

(K.C. BHANU, J.)

28th December, 2004.

bcj

To

1. The Chairman cum Managing Director, A.P.S.R.T.C. Musheerabad, R.T.C. X Roads, Hyderabad
2. The Regional Manager, A.P.S.R.T.C. Ananthapur, Ananthapur District
3. The Depot Manager, A.P.S.R.T.C., Gunthakal, Ananthapur District

4. Two C.D. copies